

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

AARON ESPENSCHIED,
GARY IDLER, and
MICHAEL CLAY,
on behalf of themselves and a class
of employees and/or former employees
similarly situated,

Plaintiffs,

v.

Case No. 09-cv-625

DIRECTSAT USA, LLC,
and
UNITEK USA, LLC,

Defendants.

PLAINTIFFS' PROPOSED SPECIAL VERDICT ON LIABILITY

NOW COME Plaintiffs Aaron Espenscheid, Gary Idler and Michael Clay, on behalf of themselves and classes of similarly situated employees, by their attorneys Gingras Cates & Luebke and Axley Brynelson, LLP, and submit the following Proposed Special Verdict on Liability. The special verdict questions below are based upon the current subclass definitions. Plaintiffs are prepared to submit modified special verdict questions, should the Court modify the current class definitions.

QUESTION NO. 1: Did FLSA class members work unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

If you answered “Yes” to Question No. 1, answer the next question; otherwise go to Question No. 4.

QUESTION NO. 2: Did Defendants have knowledge that FLSA class members worked unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

QUESTION NO. 3: Did Defendants fail to compensate FLSA class members for unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: (Yes or No)

QUESTION NO. 4: Did Wisconsin class members work unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

If you answered “Yes” to Question No. 4, answer the next question; otherwise go to Question No. 7.

QUESTION NO. 5: Did Defendants have knowledge that Wisconsin class members worked unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

QUESTION NO. 6: Did Defendants fail to compensate Wisconsin class members for unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: (Yes or No)

QUESTION NO. 7: Did Minnesota class members work unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

If you answered “Yes” to Question No. 7, answer the next question; otherwise go to Question No. 10.

QUESTION NO. 8: Did Defendants have knowledge that Minnesota class members worked unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

QUESTION NO. 9: Did Defendants fail to compensate Minnesota class members for unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: (Yes or No)

QUESTION NO. 10: Did Pennsylvania class members work unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

If you answered “Yes” to Question No. 10, answer the next question; otherwise go to Question No. 13.

QUESTION NO. 11: Did Defendants have knowledge that Pennsylvania class members worked unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: YES (Yes or No) (Answered by the Court)

QUESTION NO. 12: Did Defendants fail to compensate Pennsylvania class members for unrecorded hours outside the time between arrival at their first customer job of the day and completion of the last customer job of the day?

ANSWER: (Yes or No)

QUESTION NO. 13: Did FLSA class members work unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: (Yes or No)

If you answered “Yes” to Question No. 13, answer the next question; otherwise go to Question No. 16.

QUESTION NO. 14: Did Defendants have knowledge that FLSA class members worked unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 14, answer the next question; otherwise go to Question No. 16.

QUESTION NO. 15: Did Defendants fail to compensate FLSA class members for unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

QUESTION NO. 16: Did Wisconsin class members work unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 16, answer the next question; otherwise go to Question No. 19.

QUESTION NO. 17: Did Defendants have knowledge that Wisconsin class members worked unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 17, answer the next question; otherwise go to Question No. 19.

QUESTION NO. 18: Did Defendants fail to compensate Wisconsin class members for unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

QUESTION NO. 19: Did Minnesota class members work unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 19, answer the next question; otherwise go to Question No. 22.

QUESTION NO. 20: Did Defendants have knowledge that Minnesota class members worked unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 20, answer the next question; otherwise go to Question No. 22.

QUESTION NO. 21: Did Defendants fail to compensate Minnesota class members for unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

QUESTION NO. 22: Did Pennsylvania class members work unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 22, answer the next question; otherwise go to Question No. 25.

QUESTION NO. 23: Did Defendants have knowledge that Pennsylvania class members worked unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

If you answered “Yes” to Question No. 23, answer the next question; otherwise go to Question No. 25.

QUESTION NO. 24: Did Defendants fail to compensate Pennsylvania class members for unrecorded hours, including lunch hours, between the time they arrived at their first customer job and the time they completed their last customer job?

ANSWER: _____ (Yes or No)

QUESTION NO. 25: Did Defendants establish that Plaintiff technicians agreed that pay for productive hours was intended to compensate class members for all non-productive time worked?

ANSWER: _____ (Yes or No)

QUESTION NO. 26: Did Defendants’ method for calculating overtime for non-productive hours worked by FLSA class members violate the FLSA?

ANSWER: _____ (Yes or No)

QUESTION NO. 27: Did Defendants’ method for calculating overtime for non-productive hours worked by Wisconsin class members violate Wisconsin law?

ANSWER: _____ (Yes or No)

QUESTION NO. 28: Did Defendants’ method for calculating overtime for non-productive hours worked by Minnesota class members violate Minnesota law?

ANSWER: _____ (Yes or No)

QUESTION NO. 29: Did Defendants’ method for calculating overtime for non-productive hours worked by Pennsylvania class members violate Pennsylvania law?

ANSWER: _____ (Yes or No)

QUESTION NO. 30: Did Defendants violate Minnesota’s wage and hour law which requires employer to maintain accurate time records for employees?

ANSWER: _____ (Yes or No)

QUESTION NO. 31: Did Defendants fail to keep accurate records of the time technicians worked?

ANSWER: _____ (Yes or No)

If you answered "Yes" to Question No. 3, 15 or 26, answer the next question.

QUESTION NO. 32: Was Defendants' violation of the FLSA willful?

ANSWER: _____ (Yes or No)

If you answered "Yes" to Question No. 6, 18 or 27, answer the next question.

QUESTION NO. 33: Was Defendants' violation of Wisconsin wage and hour law willful?

ANSWER: _____ (Yes or No)

If you answered "Yes" to Question No. 9, 21 or 28, answer the next question.

QUESTION NO. 34: Was Defendants' violation of Minnesota wage and hour law willful?

ANSWER: _____ (Yes or No)

If you answered "Yes" to Question No. 12, 24 or 29, answer the next question.

QUESTION NO. 35: Was Defendants' violation of Pennsylvania wage and hour law willful?

ANSWER: _____ (Yes or No)

Date: _____
Jury Foreperson

Dated this 19th day of May, 2011.

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